

Chapter 20
of the Acts of 2016

THE COMMONWEALTH OF MASSACHUSETTS

In the One Hundred and Eighty-Ninth General Court

AN ACT PROVIDING FOR A SELECTMEN -- TOWN MANAGER FORM OF GOVERNMENT IN THE TOWN OF WELLESLEY.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Board of Selectmen

(a) The board of selectmen of the town of Wellesley shall consist of 5 registered voters of the town elected for a term of 3 years each. The terms of not more than 2 members of the board of selectmen shall expire in any year.

(b) The executive powers of the town shall be vested in the board of selectmen, who shall have all of the powers and duties granted to boards of selectmen by the constitution and the General Laws and such additional powers and duties as may be provided by special law, town by-law or by town meeting vote, except for those powers expressly granted to the town manager.

(c) The town of Wellesley may, by by-law, authorize the board of selectmen to appoint, by vote of a majority of its members, a town manager with the powers set forth in section 3 or an acting town manager with such powers as the board of selectmen may deem necessary or appropriate. The board of selectmen shall appoint a town counsel, special police, in accordance with chapter 330 of the acts of 1946, and any other appointed board or committee member or official for whom no other method of selection has been provided pursuant to this act or by town by-law.

(d) Notwithstanding any general law to the contrary, the board of selectmen or its designee shall be the local licensing authority of the town and shall have the power to issue licenses, make all necessary rules and regulations regarding the issuance of licenses, attach conditions and restrictions to licenses as it deems to be in the public interest and to enforce the laws relating to all businesses for which it issues licenses. The board of selectmen shall be the local licensing authority for the issuance and amendment of all common victualler licenses pursuant to chapter 140 of the General Laws; provided, however, that the board may delegate the authority to issue renewals and amendments involving no substantial expansion or alteration. The board of selectmen shall be the local licensing authority for the issuance of all licenses pursuant to chapter 138 of the General Laws; provided, however, that the board of selectmen or its designee may issue temporary licenses pursuant to section 14 of said chapter 138.

SECTION 2. Town Manager

(a) The town manager of the town of Wellesley shall be appointed solely on the basis of executive and administrative qualifications. The town manager shall be a professionally qualified person of proven ability, especially fitted by education, training and previous experience. No person holding elective public office in the town with the exception of a town meeting member shall, within 12 months of holding the office, be eligible for appointment as town manager. The town may, by by-law, establish additional qualifications as it may deem necessary and appropriate; provided, however, that the board of selectmen may also establish additional qualifications as it may deem necessary and appropriate.

(b) The terms of the town manager's employment may be the subject of a written contract entered into pursuant to section 108N of chapter 41 of the General Laws. The town manager's compensation shall not exceed the amount annually appropriated for that purpose.

(c) After an initial term of not more than 3 years, the town manager may be re-appointed for subsequent terms of office; provided, however, that no subsequent term shall be for more than 5 years.

SECTION 3. Powers and Duties of Town Manager

(a) Upon appointment, the town manager shall be the chief administrative officer of the town and shall be vested with the powers and duties in subsection (b). The town manager shall be responsible to the board of selectmen for the proper administration of all town affairs placed in the town manager's charge by this act.

(b) (1) Notwithstanding sections 69E and 97A of chapter 41 of the General Laws, the town manager may fix the compensation of all town officers and employees appointed by the town manager within the limits established by applicable appropriations and any compensation plan in effect at the time.

(2) Notwithstanding section 42 or 42A of chapter 48 of the General Laws, if accepted by the town at any time, or any other general or special law to the contrary, the town manager may appoint a police chief, a fire chief or chief fire engineer and all other department heads and officers; provided, however, that appointment of subordinates and all other employees shall be made by the department head or chief staff employee of that department, except for police officers, police department employees, fire engineers, firefighters and other fire department employees, who shall be appointed by the town manager in accordance with applicable procedures established by the town. Notwithstanding sections 8D and 8E of chapter 40 of the General Laws, the board of selectmen shall appoint the members of the historical commission and youth commission. Appointments of the police chief and fire chief or chief fire engineer shall not take effect unless approved by the board of selectmen. Any appointment of other department heads or chief staff employees of elected and appointed boards and committees shall be made only after consultation with that board or committee regarding applicable duties and qualifications and an

opportunity for that board or committee to interview 1 or more of the final candidates submitted by the town manager or through a process under the direction of the town manager. Such appointment shall take effect not sooner than: (i) it is approved by the board or committee; or (ii) 15 calendar days after notice of the appointment is provided to that board or committee without any action thereon; whichever occurs first. The town manager may remove any employee. The town manager shall provide notice to the affected board or committee at least 5 days before any removal of a department head or chief staff employee of that board or committee. This subsection shall not apply to employees of the school committee, the municipal light board, appointments made by the commonwealth or appointments for which another method of appointment is provided in this act.

(3) The town manager shall manage and supervise all town departments except for the school department and the municipal light department.

(4) The town manager may, except as otherwise prohibited by law, reorganize, consolidate, abolish or create town departments in whole or in part and transfer the duties, powers and appropriations incidental to the reorganization of 1 town department to another as follows:

(i) for town departments under the supervision of the board of selectmen, with the approval of the board of selectmen; and

(ii) for all other town departments, after consultation with the affected board and with the approval of the affected board or town meeting.

(5) The town manager shall direct the operational planning and implement the strategic planning for the town.

(6) The town manager shall provide for the execution and enforcement of the laws that require enforcement by town officers and employees subject to the town manager's direction and supervision.

(7) The town manager shall keep the board of selectmen fully informed as to the financial condition and needs of the town and make recommendations to the board of selectmen as the town manager may deem necessary or appropriate.

(8) The town manager shall ensure that a full and complete record of the financial and administrative activities of the town is kept and render a report of those activities to the board of selectmen at the end of each fiscal year and at such other times as may be required by the board of selectmen.

(9) The town manager shall negotiate collective bargaining agreements for execution by the board of selectmen.

(10) The town manager shall attend all regular and special meetings of the board of selectmen, except when excused.

(11) The town manager shall attend all sessions of town meeting in order to be available to answer all questions directed to the town manager that are related to the town manager's office or to matters within the town manager's authority.

(12) The town manager shall prepare and submit a proposed town-wide annual operating budget, financial plan and the long-range capital budget program.

(13) The town manager may approve any warrants for the payment of town funds prepared by the finance director; provided, however, that the approval of any such warrant by the town manager shall be sufficient to authorize payment by the treasurer. If there is a vacancy in the office of town manager or in the town manager's absence, the board of selectmen or its designee may approve such warrants.

(14) The town manager shall serve as the executive officer of the town for the purposes of chapter 258 of the General Laws.

(15) The town manager shall devote full-time to the office and, except as expressly authorized by the board of selectmen, shall not engage in any other business or occupation during the term of office. Except as expressly provided in this act, the town manager shall not hold any other public elective or appointive office in the town; provided, however, that, with the approval of the board of selectmen, the town manager may serve as the town's representative to regional boards, commissions and the like, but the town manager shall not receive additional compensation for those services.

(16) The town manager shall perform any other duties required by town by-law, town meeting vote or the board of selectmen that is consistent with this act.

SECTION 4. Removal Procedures. The board of selectmen may terminate the town manager in accordance with applicable procedures established by the town.

SECTION 5. Section 3 of chapter 555 of the acts of 1978, as most recently amended by section 1 of chapter 164 of the acts of 2005, is hereby further amended by striking out the first and second paragraphs and inserting in place thereof the following 2 paragraphs:-

Notwithstanding any general or special law to the contrary, the town of Wellesley may establish by town by-law a finance department. Any such by-law shall provide that the department shall be responsible to the town manager. The department's duties and responsibilities may include coordination and administration of town financial services and activities, including the town's financial planning; investment of town funds; maintenance of town accounting records and financial statements; payment of all town obligations after securing required approvals; assisting in the development of budgets and reviewing all budgets for format, completeness and accuracy before submission to the advisory committee; monitoring of all expenditures of town funds; timely reporting to the town manager and to appropriate boards and officers of actual or foreseeable obligations of expenditures of funds in excess of budgeted appropriations; maintenance of payroll and other financial records relating to all town personnel; preparing and supervising town purchasing and inventory control procedures; administering the disposal of town property; and

assisting the town manager in the supervision of all data processing and the development and enforcement of internal controls.

The finance department shall be under the supervision and management of the finance director, who shall be appointed by the town manager, subject to the approval of the board of selectmen, for a term of not more than 3 years. The finance director shall be the chief financial officer of the town and shall serve as the town comptroller and town accountant. Subject to the approval of the town manager, the finance director shall appoint, for not more than a 3-year term, a town treasurer and collector of taxes, who shall be under the supervision and management of the finance director and shall have, except as otherwise expressly provided by this act, the powers and duties vested by law in town treasurers and collectors of taxes.

SECTION 6. Said chapter 555 is hereby further amended by striking out section 4 and inserting in place thereof the following section:-

Section 4. Notwithstanding any general law to the contrary, the town may establish by by-law a natural resources commission consisting of 5 members elected for a term of 3 years, which shall have the powers and duties of conservation commissions and forest committees under the General Laws and the powers and duties, currently vested in the board of public works of the town, of park commissioners, tree wardens, moth superintendents and superintendents of insect pest control under the General Laws. The natural resources commission shall appoint a wetlands protection committee which may administer and enforce section 40 of chapter 131 of the General Laws, a landscape advisory committee and a long-range planning committee. The town manager shall appoint a director of natural resources and the director shall appoint such other staff for whom funding has been provided. The natural resources commission shall have overall authority and responsibility with respect to: the use, acquisition, management, preservation and protection of conservation land, park land and such other land as may be transferred to or acquired by the commission; forest and tree nursery management; insect pest and moth control; and administration of the conservation fund under sections 5 and 8C of chapter 40 of the General Laws. In addition, the commission shall study and make recommendations regarding the use, maintenance, management, preservation and protection of the natural resources of the town which are under the jurisdiction of other boards, establish general policies to be implemented by the department of public works for the carrying out of work affecting natural resources, propose for acquisition by the town those natural resources that the commission deems useful or important to the town and carry out other related responsibilities as the town may assign to it or as may be permitted or required by law.

SECTION 7. Said chapter 555 is hereby further amended by striking out section 9 and inserting in place thereof the following section:-

Section 9. Notwithstanding section 69E of chapter 41 of the General Laws, the superintendent of public works appointed by the town manager shall have the title director of public works.

SECTION 8. Sections 5 to 7, inclusive, shall take effect and the position of executive director of general government services, created by section 1 of chapter 247 of the acts of 1995, shall be abolished upon the initial appointment of a town manager pursuant to subsection (c) of section 1 or on November 30, 2016, whichever is later.

SECTION 9. All laws, by-laws, votes, rules and regulations, whether enacted by the authority of the town or any other authority, that are in force in the town of Wellesley on the effective date of this act, or any portion thereof, consistent with this act, shall continue in full force and effect until modified in accordance with applicable law.

SECTION 10. Nothing in this act shall be construed to abridge, alter or amend the powers and duties of the municipal light board or manager of the municipal light plant as set forth in chapter 164 of the General Laws.

SECTION 11. This act shall be submitted for acceptance to the qualified voters of the town of Wellesley at the next regular or special town election following its enactment in the form of the following question, which shall be placed upon the official ballot to be used at the election: "Shall an act passed by the general court in the year 2016 entitled 'An Act providing for a selectmen-town manager form of government in the town of Wellesley' be adopted?"

If a majority of the votes cast in answer to the question is in the affirmative, this act shall take effect in the town, but not otherwise.

House of Representatives, January 25, 2016.

Passed to be enacted,

Paul Donato, Acting Speaker.

In Senate, January 25, 2016.

Passed to be enacted,

John J. Brown, Acting President.

Jan 29, 2016.
Approved,

Charles D. Baker

Governor.